

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 8032 of 1997****For Approval and Signature:****HONOURABLE MR.JUSTICE S.R.BRAHMBHATT**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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PM VEKARIA AND ANOTHER
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :

MR JJ YAJNIK for the Petitioners

MR HEMANT MAKWANA, ASSTT GOVERNMENT PLEADER for Respondent Nos.1 to 3
DS AFF.NOT FILED (R) for Respondent No.4

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT**Date : 06/12/2007****ORAL JUDGMENT**

1. Shri J.J. Yajnik, learned counsel, submits on behalf of the petitioners that the seniority list impugned in this petition is prepared ignoring the established principle of law for preparing seniority list. The respondents have not only ignored the criterion for continuous officiation, but, have acted in such a manner and given deemed date to persons

like the respondents on which they would not have even attained the age of being eligible for Government service. Learned advocate Shri Yajnik fairly admitted that the persons likely to be affected have not been joined as respondents. Though two persons have been joined in a representative capacity, however, as the matter is that of 1997, the Court may issue appropriate direction for considering the representation of the petitioners in light of the established principle of law in respect of preparing this seniority list and applying theory of 'Pushdown', so the interest of justice would be served.

2. Shri Yajnik, learned counsel for the petitioners, has submitted that, even on earlier occasion, in respect of Gujarat State Accounts Service (Non-gazetted) Association Vs. State of Gujarat, this Court (Coram: S.K. Keshote, J.) in Special Civil Application No.1920 of 1986, directed the respondent on 01.10.1999, while disposing of the matter, to form a Committee to thrash out the issues.

3. Shri Hemant Makwana, learned Assistant Government Pleader, submits that the respondents shall have no objection in considering the representation that may be made by the petitioners. However, some time be granted to decide the same as the matter is that of 1997.

4. In view of the aforesaid, following directions

are passed in the interest of justice:

- (a) The petitioners are at liberty to file detailed representation within 30 days from the receipt of the order of this Court, enlisting their grievance and placing on record supporting material, including judgments in their favour.
- (b) The concerned Secretary of the Finance Department shall decide the said representation after inviting objections from the persons likely to be affected because of the representation and its decision, in accordance with law. The entire exercise of deciding the representation after affording opportunity to the concerned parties shall be over within six months from the date of the receipt of the representation from the petitioners.

5. In view of the aforesaid directions, the learned counsel for the petitioners seeks permission to withdraw this petition at this stage with a liberty to approach the Court in case adverse order is passed.

6. Permission as sought for is granted. The petition is disposed of as withdrawn. Rule is discharged.

(S.R.BRAHMBHATT, J.)

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